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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 14, 1999

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: Implementation of  
IntraLATA Toll Dialing Parity  
pursuant to the provisions of  
47 U.S.C. § 251(b) (3)

CASE NO. PUC970009

FINAL ORDER

On February 6, 1997, the Commission commenced its investigation of implementing intraLATA toll dialing parity ("dialing parity") pursuant to the provisions of 47 U.S.C. § 251(b)(3). The Commission evaluated the dialing parity plan submitted by Bell Atlantic-Virginia, Inc. ("BA-VA") as well as plans filed by several other local exchange companies ("LECs") and ordered such plans to be approved in accordance with the Guidelines and Minimum Standards for LEC IntraLATA Toll Dialing Parity Plans, as set out in Attachment 1 to the Commission's Order Establishing Requirements and Conditionally Approving Plans, issued May 9, 1997, ("Order of May 9, 1997").<sup>1</sup> (Also attached to this order, hereinafter referred to as "Attachment 1".)

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<sup>1</sup> The Commission approved the plans of BA-VA, GTE, United/Centel, MFS and TGG. With the exception of BA-VA, these companies should have already implemented dialing parity. All subsequent plans were required to be filed through a prescribed administrative procedure with the Division of Communications.

On November 6, 1998, the Commission issued its Order on Motion of Bell-Atlantic Virginia, Inc. to Clarify its Obligation to Implement IntraLATA Toll 1+ Presubscription, which suspended the implementation deadline of February 8, 1999, previously set by our Order of May 9, 1997.

Our suspension of the implementation deadline was premised upon the vacation of the Federal Communications Commission Order, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, second report and memo opinion (FCC, August 8, 1996) ("the Dialing Parity Order") by the United States Court of Appeals for the Eighth Circuit in its decision, *People of the State of California v. FCC*, 124 F. 3d 934, 943 (Eighth Cir., 1997). That decision was reversed January 25, 1999, by the United States Supreme Court, in *AT&T Corp. v. Iowa Utilities Bd.*, 119 S. Ct. 721, 67 USLW 4104.

Pursuant to the United States Supreme Court decision in *Iowa Utilities Board*, the FCC released on March 23, 1999, its Order, In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, and Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell for Expedited Declaratory Ruling on Interstate IntraLATA Toll Dialing Parity or, in the

Alternative, Various Other Relief ("Dialing Parity Implementation Schedule Order").

The FCC waived the February 8, 1999, dialing parity implementation deadline ordered in the August 8, 1996, Dialing Parity Order. In the Dialing Parity Implementation Schedule Order, the FCC established a new implementation deadline schedule as follows:

No later than May 7, 1999, all LECs must implement intraLATA toll dialing parity plans already filed and approved by the state regulatory commission for each state in which the LECs provide telephone exchange service. LECs must implement such intraLATA toll dialing parity plans by May 7, 1999, whether or not the state regulatory commission has ordered implementation of the approved plan and notwithstanding any date subsequent to May 7, 1999, that may have been ordered by the state commission.

No later than April 22, 1999, all LECs must file intraLATA toll dialing parity plans with the state regulatory commission for each state in which the LEC provides telephone exchange service if a plan has not yet been filed with such state commissions. Once a state commission has approved a plan, the LEC must implement its plan no later than 30 days after the date on which the plan is approved. Any plan that provides for the implementation of intraLATA dialing parity by a state subsequent to thirty (30) days after approval by the state commission will be deemed in violation of Commission rules.

On June 22, 1999, if a state commission has not yet acted on a LEC's intraLATA toll dialing parity implementation plan, the LEC must file that plan with the Common Carrier

Bureau ("Bureau"). By June 23, 1999, the Bureau will release a public notice initiating a comment cycle for the Bureau's consideration of any LEC plan filed with the Bureau. A state commission may continue to act on a plan until the Bureau has acted upon that plan. A LEC's failure to file a plan with the state commission or this Commission in the matter required by this order will be deemed a violation of this Commission's rules that will allow interested parties to seek relief pursuant to section 401(b) of the Act.

(Dialing Parity Implementation Schedule Order, ¶ 7)

Based upon the above-quoted implementation requirements of the FCC, this Commission finds that dialing parity for BA-VA should be implemented no later than May 7, 1999. LECs that have not previously submitted dialing parity plans must submit intraLATA toll dialing parity plans with the Division of Communications no later than April 22, 1999, consistent with the Commission's Order of May 9, 1997, as modified herein below.

Moreover, in light of the limited time available for implementation, the need to efficiently use Staff resources, and the number of LECs which still need to implement dialing parity, the Commission believes it is necessary to streamline the procedures for filing and review of intraLATA toll dialing plans. Therefore we will waive certain requirements of the guidelines shown in Attachment 1. Such waivers are permitted under Guideline 9 of this attachment.

The Commission first finds that specific waivers from the Commission's guidelines for BA-VA, as set out in Attachment 1, are necessary as BA-VA is the only LEC with an approved intraLATA dialing parity plan which has not implemented dialing parity and is therefore subject to the May 7, 1999, deadline. First, the customer notification timeline in Guideline 3 is waived. BA-VA shall be required to notify its customers of the availability of intraLATA dialing parity through a bill message or insert in the next available billing cycle. In addition, the timeline in Guideline 4 for carrier notification is waived and BA-VA will now be required to provide notification to all interexchange carriers of its intraLATA dialing parity implementation date no later than fifteen(15) days following the date of this Order.

All remaining LECs currently operating in Virginia which have not implemented dialing parity are required to make a filing with this Commission pursuant to the guidelines in Attachment 1, subject to certain general waivers set forth below, no later than April 22, 1999. Any such filing will be presumptively approved as of thirty(30) days prior to the implementation date unless the proposed implementation date is after July 22, 1999. Any LEC with a proposed effective implementation date after July 22, 1999<sup>2</sup>, will be required to

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<sup>2</sup> The FCC's Dialing Parity Implementation Schedule Order requires a plan not acted on by a state commission by June 22, 1999, to be filed with the FCC's Common Carrier Bureau. In accordance with this Order's procedures, a LEC's

file its proposed intraLATA dialing parity implementation plan with the FCC pursuant to the FCC's Dialing Parity Implementation Schedule Order.<sup>3</sup>

The Commission has determined that a letter submitted by a LEC to the Division of Communications stating compliance with the guidelines in Attachment 1 would meet the requirement for filing an intraLATA dialing parity plan as required in Guideline 7. In addition, the requirement to file a plan with the Division of Communications at least ninety(90) days prior to the proposed implementation date is waived and LECs only need to submit their plans thirty(30) days prior to implementation. In addition, the customer and carrier notification timelines in Guidelines 3 and 4 are waived. These LECs shall notify customers and carriers at least thirty(30) days prior to implementing intraLATA dialing parity. Further, the requirement in Guideline 3 to submit the proposed customer notice to the Staff and IXCs at least thirty(30) days prior to the proposed

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plan with an implementation date of July 22, 1999, would be considered approved by this Commission as of June 22, 1999.

<sup>3</sup> The FCC's Dialing Parity Implementation Schedule Order does not provide for any exemption. However, this Commission believes a rural telephone carrier may petition this Commission for an exemption from the dialing parity requirements of 47 U.S.C. § 251(b)(3) pursuant to 47 U.S.C. § 251(f)(2). Any rural telephone carrier which plans to petition for such an exemption with the Commission should provide notice to this Commission by April 22, 1999, of its intent and should file its petition in accordance with the requirements on 47 U.S.C. § 251(f)(2), no later than June 22, 1999. Any rural telephone company with such exemption petition filed with the Commission as of this date is not required to file its dialing parity plan with this Commission as otherwise required for LECs as stated above.

mailing to customers is also waived. LECs will not need to have such notice evaluated by Staff. However, any customer notice should be nondiscriminatory and not promote the use of the LEC's own intraLATA toll services.

The Commission believes there may be LECs which have not previously submitted an intraLATA dialing plan with the Commission Staff but are currently offering 2-PIC presubscription. If any 2-PIC presubscription so implemented fails to meet the guidelines, the implementing LEC is required to bring its 2-PIC presubscription into conformance with this Order no later than May 7, 1999. To the extent there are any such LECs, they are also required to file a letter with the Division of Communications on or before April 22, 1999, providing the actual effective implementation date and a statement that intraLATA dialing parity was implemented consistent with the Commission's revised guidelines or will be so implemented no later than May 7, 1999.

Further, all LECs certificated after April 22, 1999, or those LECs already certificated but without customers in Virginia as of this date, will have the requirements in Guidelines 3, 4, 5 and 7 waived. However, the remaining provisions set forth in Attachment 1 will remain in effect and any such LEC shall be required to implement a full 2-PIC method to allow its customers to prescribe to different carriers for

their intraLATA and interLATA toll service as a prerequisite to offering service in Virginia.

IT IS THEREFORE ORDERED THAT:

(1) LECs shall file their intraLATA dialing parity plans in accordance with the requirements stated above and in Attachment 1 appended hereto.

(2) BA-VA shall implement intraLATA dialing parity no later than May 7, 1999.

**Attachment 1**  
**Guidelines and Minimum Standards for**  
**LEC IntraLATA Toll Dialing Parity Plans**  
**Case No. PUC970009**

**1.     Presubscription**

A full 2-PIC method will be utilized by the LEC. This allows customers to presubscribe to different carriers for their intraLATA and interLATA toll calling. The Commission may consider other presubscription methodologies upon motion of any party or its own motion.

**2.     Carrier Selection Procedures**

Allocating and balloting customers for intraLATA toll presubscription is not required. A LEC may retain its existing customers that do not affirmatively choose to change intraLATA toll carriers. A LEC, however, may not automatically assign intraLATA service for new customers to itself or to the customer's preferred interLATA carrier.

**3.     Customer Notification**

A LEC must provide customer notice of the availability of intraLATA equal access in their exchange area at least 30 days prior to implementation. The LEC shall submit a copy of its proposed customer notice to the Commission Staff and IXC's in Virginia at least 30 days prior to the proposed mailing to customers. The Staff will evaluate such notice and its format through its administrative capacity.

**4.     Carrier Notification**

A LEC shall provide at least 60 days notice to IXC's prior to implementing intraLATA equal access by end office.

**5.     PIC Grace Period**

A LEC shall provide an initial grace period for existing customers to choose an intraLATA carrier without a charge. A minimum period of 90 days is established from the LEC's implementation of intraLATA equal access for an existing customer's free PIC. A LEC may propose a longer PIC grace period.

**6. PIC Freeze**

A LEC may provide an intraLATA PIC freeze option to requesting customers once intraLATA equal access has been implemented. A LEC shall not market or actively offer such an intraLATA PIC freeze in the first 90 days after intraLATA equal access conversion.

**7. LEC Filings**

A LEC shall file its intraLATA dialing plan with the Division of Communications at least 90 days prior to the proposed implementation date, and at least 30 days prior to the start of any notice interval. At the same time, the LEC shall also provide a copy of its plan to the Attorney General and certificated IXC's in Virginia. The LEC shall include its proposed implementation schedule with this filing.

**8. Cost Recovery**

A LEC may recover its appropriately determined incremental cost of implementing intraLATA presubscription. Any cost recovery mechanism to allocate cost between carriers should be based on total intraLATA minutes and recovered on a per minute of use basis.

A LEC shall file with the Commission Staff a cost recovery plan, including cost information and other necessary supporting documentation, no later than 270 days after it has completed intraLATA presubscription. At the same time, copies must be provided to the Attorney General and to IXC's in Virginia. This plan will become effective one year from such completion date. A LEC's cost recovery plan shall include a proposed recovery period and an annual true-up procedure.

**9. Waivers**

The Commission may waive or amend any of these requirements as it deems necessary consistent with the public interest and the requirements of the Telecommunication's Act of 1996.

**10. General**

A LEC shall offer intraLATA toll dialing parity to carriers on a competitively neutral basis and in a nondiscriminatory manner.